

July 20, 2004

Oppose the "Marriage Protection Act," H.R. 3313

U.S. House of Representatives  
Washington, D.C. 20515

Dear Representative:

We, the undersigned organizations dedicated to protecting women's reproductive health and rights, write to urge you to oppose H.R.3313, the so-called "Marriage Protection Act." The implications of this bill go far beyond the context of same-sex relationships. This bill would set a dangerous precedent that would disrupt the traditional separation of powers and undermine the longstanding role of the federal judiciary in safeguarding constitutional rights, including the right of reproductive choice.

H.R.3313 would deny all federal courts - including the U.S. Supreme Court - the jurisdiction to review the constitutionality of the Defense of Marriage Act (DOMA), which authorizes states to refuse to recognize marriages of same-sex couples performed in other states. The bill would irreparably alter the relationship between the judicial branch and the two other branches of the federal government by depriving the federal courts of their traditional role as interpreters of the United States Constitution. Even more disturbing, unlike other previous versions of court-stripping legislation, H.R.3313 deprives even the Supreme Court of jurisdiction, divesting the Court of its historical role as the final authority on resolving conflicting interpretations of federal statutes or determining their constitutionality. H.R.3313 would instead allow 50 different state courts to determine DOMA's constitutionality, a form of constitutional chaos.

We are deeply concerned about legislation like H.R.3313 that strips federal courts of their important role in safeguarding constitutional rights and freedoms. While the target today is same-sex marriage, there can be no doubt that anti-choice lawmakers and their allies in Congress intend to use this strategy to achieve other extremist policy goals that they are unable to accomplish without toppling the delicate constitutional balance of powers that has served this country for more than 200 years. Recently, House Majority Leader Tom DeLay told reporters that he plans to use "jurisdiction stripping" measures to achieve other social policy goals. While he claimed that the time is "not quite ripe" to apply this legislative tactic to the issue of abortion, in fact, anti-choice lawmakers have already made the attempt - in 2002, when considering the Federal Abortion Ban. Although that particular effort failed, passage of H.R.3313 would set a dangerous precedent for future attempts to strip federal courts of jurisdiction to hear cases regarding reproductive choice. The federal courthouse doors should not be closed to women seeking to vindicate their right to obtain critical reproductive health services.

For these reasons, we urge you to oppose H.R.3313.

Sincerely,

American Association of University Women

American Medical Women's Association

Catholics for a Free Choice

Center for Reproductive Rights

Central Conference of American Rabbis

Feminist Majority

Legal Momentum (The new name of NOW Legal Defense and Education Fund)

NARAL Pro-Choice America

National Abortion Federation

National Council of Jewish Woman

National Council of Women's Organizations

National Family Planning and Reproductive Health Association

National Latina Institute for Reproductive Health

National Women's Law Center

Planned Parenthood Federation of America

The Sexuality Information and Education Council of the United States (SIECUS)

Union for Reform Judaism